

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EARNESTINE DAVIS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:08CV1969 CAS
)	(FRB)
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

This cause is on appeal from an adverse ruling of the Social Security Administration. Presently pending before the Court is defendant's Motion for Remand (filed March 23, 2009/Docket No. 10). All pretrial matters were referred to the undersigned United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b), for appropriate disposition.

In his Motion for Remand, defendant requests that this cause be remanded to the Commissioner for further administrative proceedings. Specifically, defendant avers that the claim file has been lost and that, therefore, a proper certified record cannot be prepared. Defendant avers that he is attempting to gather the missing evidence and will prepare a certified administrative record if the materials able to be gathered render a complete record. If not, defendant avers that the Appeals Council will then remand the matter to an Administrative Law Judge with instruction to

reconstruct the administrative record, conduct another hearing and issue a new decision. Plaintiff does not object to the defendant's motion.

Defendant has not yet filed an Answer in this cause. The Motion for Remand is timely filed and the defendant has shown good cause for such remand. 42 U.S.C. § 405(g).

Therefore,

IT IS HEREBY RECOMMENDED that defendant's Motion for Remand (Docket No. 10) be granted.

IT IS FURTHER RECOMMENDED that, pursuant to sentence six of 42 U.S.C. § 405(g), this cause be remanded to the Commissioner for further administrative proceedings.¹

The parties are advised that any written objections to this Report and Recommendation shall be filed not later than **April 6, 2009**. Failure to timely file objections may result in waiver of the right to appeal questions of fact. Thompson v. Nix, 897 F.2d 356, 357 (8th Cir. 1990).


UNITED STATES MAGISTRATE JUDGE

Dated this 24th day of March, 2009.

¹It is the Commissioner's duty to file with the district court the results of any proceedings upon remand. 42 U.S.C. § 405(g).